THE HON'BLE SRI JUSTICE BILAL NAZKI

Writ Petition No.33705 of 1997

ORDER:

Respondents 4 and 5 have not been served. Although learned Counsel for the petitioner submits that a notice was sent to respondents 4 and 5, but after hearing for a while, it became apparent that they are not the necessary parties.

A demand notice dated 13-06-1997 issued by the third respondent-Assistant Labour Officer is challenged in this Writ Petition. By this notice, the third respondent observed that during a survey on 09-05-1997, it was found that fourth and fifth respondents, who are aged 13 and 14 years respectively, were employed by the petitioner in the process of egg packing, which was prohibited under the Child Labour (Prohibition & Regulation) Act, 1986 (for short 'the Act'). Applying the judgment of the Supreme Court in ***M.C. Mehta vs. State of Tamilnadu and others***[1], the first respondent-authority passed the order in Rc.No.B/1974/97, dated 23-10-1997, demanding an amount of Rs.40,000/- for being deposited in the Child Rehabilitation-cum-Welfare Fund of East Godavari District.

In my view, the judgment was misinterpreted by the first respondent because this judgment pertained only to few industries, and as far as Andhra Pradesh is concerned, it has to be confined only to the Slate Industry in Markapur. In this view of the matter, the impugned order could have not been passed and the same is accordingly set aside.

On facts, *prima facie* it appears that the petitioner had contravened the provisions of the Child Labour (Prohibition & Regulation) Act, 1986, and as such was liable to be prosecuted in terms of Section 14 of the Act. Therefore, it is directed that the petitioner be prosecuted in terms of the Child Labour (Prohibition & Regulation) Act, 1986. Since, the first respondent was under a misapprehension that the Supreme Court judgment would apply to the facts of the case, therefore, almost ten years were lost. The first respondent shall move an application before the Magistrate concerned for condonation of delay in the circumstances of the case.

With these observations, the Writ Petition is disposed of. No costs.

26-07-2006

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[1] **1996 (6) Supreme Court Cases 756**